

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power
Hearing on “EPA’s Proposed Ozone Rule”
June 12, 2015

(As Prepared for Delivery)

This morning we will begin our examination of EPA’s proposed new National Ambient Air Quality Standard (NAAQS) for ozone. We will start with a focus on the agency’s perspective, and I welcome Acting Assistant Administrator McCabe. Next Tuesday we will explore other perspectives on this proposed rule, including those of the job-creating businesses on which the compliance burdens would fall.

Before we get into the proposed new rule, I want to touch on a few historical points I think are relevant to the conversation. The regulation of criteria pollutants, including ozone, is a core component of the Clean Air Act. The agency adopted ozone standards in 1971, 1979, and 1997. These regulations have resulted in major reductions, and ozone levels have declined by more than 30 percent since 1980.

In 2008, the Bush EPA finalized an even stricter ozone standard, the agency’s fourth. However, the Obama EPA itself has significantly delayed implementation of this rule. In fact, the agency delayed issuing the implementing regulations until last March. As a result of this late start, state and local governments are only in the very preliminary stages of compliance, which will take many more years.

In my view, the ozone problem in America is well on its way towards resolution, and to the extent that EPA identifies public health concerns they are largely in areas out of compliance with the existing standard. However, rather than focus on implementing the requirements already on the books, the agency seems intent on setting a new rule that would bind future administrations.

The proposed rule would lower the standard from the current 75 parts per billion (ppb) down to 65 or 70 ppb, but the agency also took comment on 60 ppb. These proposed levels are so low that in some parts of the country they are at or near background levels. The proposed levels are so low that even EPA admits that it is not fully known how to achieve compliance.

The marginal costs of ratcheting down the existing standard go through the roof. EPA estimates that a 65 to 70 ppb standard would cost \$3.9 to \$15 billion annually, and that a 60 ppb standard would cost \$39 billion annually. Independent estimates are much higher, including a National Association of Manufacturers’ (NAM) study that puts the cost of a 65 ppb standard at \$140 billion per year, which would make it the agency’s most expensive regulation ever. This study also estimates 1.4 million fewer jobs and household costs averaging \$830 per year.

These costs come on top of all the other rules we have seen from the Obama EPA, many of which also impact the energy and manufacturing sectors. Moreover, this rule is yet another chapter in the Administration’s effort to force more extreme climate policies on the American people.

Those counties not meeting the new standard would be designated as nonattainment. EPA estimates that fully 358 counties that currently have monitors would be in non-attainment at 70 ppb, and 558 counties at 65 ppb based on recent data. This does not include counties nearby or without ozone monitors that may also be designated by EPA to be in nonattainment.

A nonattainment designation is like a self-imposed recession. In such counties it becomes extremely difficult to obtain a new permit, build a factory or power plant, and even permits for expansions at existing facilities are impacted. Just this week, in a survey of manufacturers, over half said they were not likely to continue with a new plant or expansion if it was located in a nonattainment area.

The same permitting challenges apply for roads and other large infrastructure projects. In effect, almost all new major job-creating economic activity is jeopardized until the nonattainment area meets the

standard, which could take years if not decades. Even the mere possibility that a location could later be designated to be in nonattainment is enough to scare off prospective employers, so the proposed rule may already be doing damage.

To me, this proposed ozone rule is Exhibit A of skyrocketing marginal costs and diminishing marginal returns. Implementation of the current standard has essentially not yet begun. At a minimum, EPA should focus on implementing the ozone rule already on the books before imposing a new one.

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